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GROUP 2300.20699VC2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): R. HORI, et al.

MAILED

Serial No.: 07/869,851

Filed: April 16, 1992

For: SEMICONDUCTOR INTEGRATED CIRCUIT **GROUP 230**

Group: 2306

Examiner: S. Baker

PETITION UNDER 37 CFR §1.181

Honorable Commissioner of Patents  
and Trademarks  
Washington, DC 20231

January 12, 1995

Sir:

This Petition is being filed in response to the action taken by the Examiner to suspend prosecution of the above-referenced application as set forth in the November 22, 1994 Advisory Action.

**FACTS:**

In the present application the Examiner issued a final Office Action on June 17, 1994. In response to the issues raised in the June 17, 1994 Office Action several interviews were held with Examiner Baker during which an agreement was reached that if the claims were amended to more clearly recite the features of the present invention then the claims would be allowable over the prior art of record as evidenced by the October 19, 1994 Examiner's Interview Summary Records (Paper Nos. 25 and 26).

Based on the interviews, an Amendment After Final was filed on October 24, 1994 amending the claims in the manner discussed during the interview so as to place the present application in condition for allowance as argued. Apparently, in response to the October 24, 1994 Amendment After Final placing the present application in condition for allowance as agreed, an Advisory Action was issued on November 22, 1994 indicating that ex parte prosecution is suspended for a period of six (6) months from the date of the Advisory Action in view of currently prosecuted reissue application Serial No. 07/875,088, filed April 28, 1992. Examiner Baker indicated in the Advisory Action that authority for the suspension is provided in 37 CFR §1.177 and MPEP 1451.

**POINTS TO BE REVIEWED:**

Applicants hereby request a clarification of the reasons for the suspension of prosecution of the present application and request that the suspension of prosecution be withdrawn since it is not properly based on the rules so as to permit the present application to be allowed.

Applicants note that 37 CFR §1.177 is merely concerned with a situation where the Commissioner in his or her discretion may cause several patents to issue for distinct and separate parts of a patented invention from a reissue application upon demand of the Applicant and upon payment of the required fee for each division. The present application

was not filed as a divisional reissue application as required under 37 CFR §1.177 nor has Applicants demanded that such a division be issued from the reissue application Serial No. 07/875,088. The present application is merely a divisional of prior application Serial No. 140,628 filed January 4, 1988 which issued as U.S. Patent No. 4,916,389. Reissue application Serial No. 07/875,088 is a reissue application of 4,916,389. The present application is a divisional directed to claims restricted from application Serial No. 140,628 whereas the reissue application requests reissue of U.S. Patent No. 4,916,389 which was patented based on the elected invention. Thus, both applications are already directed to distinct inventions disclosed in application Serial No. 140,628 thereby not requiring designation that one is a divisional of the other by the Commissioner as per 37 CFR §1.177.

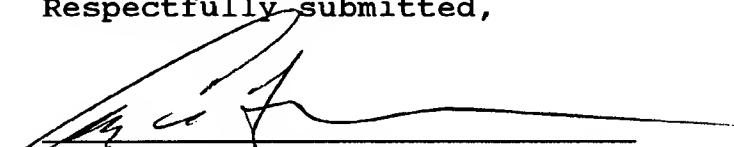
**ACTION REQUESTED:**

Therefore, Applicants request the Commissioner to exercise supervisory authority to have the Examiner clarify the reasons for the suspension of prosecution and to withdraw such suspension being that it is not in accordance with the rules of practice.

To the extent necessary, applicants petition for an extension of time under 37 C.F.R. section 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 01-2135 (Case No. 501.20699VC2) and  
please credit any excess fees to such Deposit Account.

Respectfully submitted,



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